

Message

From: Tomiak, Robert [tomiak.robert@epa.gov]
Sent: 11/4/2019 6:54:28 PM
To: Harlow, David [harlow.david@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Starfield, Lawrence [Starfield.Lawrence@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Mugdan, Walter [Mugdan.Walter@epa.gov]; Lopez, Peter [lopez.peter@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]; Wooden-Aguilar, Helena [Wooden-Aguilar.Helena@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]
CC: Reed, Chris [Reed.Chris@epa.gov]; Abrams, Nancy [Abrams.Nancy@epa.gov]
Subject: Limetree Bay Terminal (LBT) Status Update

Because of teamwork and progress resolving the vast majority of topics, there are only a few left that merit continued tracking.....and they don't seem to change in status that rapidly. Unless anyone has concerns or other preferences, we are considering going to monthly (as opposed to bi-weekly) updates. Again, appreciate the teamwork and coordination all around on this!

Thanks, Rob

From: Tomiak, Robert
Sent: Friday, October 25, 2019 11:15 AM
To: Harlow, David <harlow.david@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Cc: Reed, Chris <Reed.Chris@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>
Subject: Limetree Bay Terminal (LBT) Status Update 10/25/2019

Continued progress on all topics. Latest status update is below.

Thanks, Rob

Limetree Update – October 25, 2019

- **CD Modification Update:** The parties are exchanging final drafts in preparation for concurrence.
- **PAL:** **Ex. 5 Deliberative Process and Atty-Client**

Ex. 5 Deliberative Process and Atty-Client

- **Refinery Sector Rule and Boiler MACT Extension Requests:** Briefings within OECA and the Region have been scheduled for next week. EPA will reconnect with VIDPNR after review by senior management.
- **Letter responding to VI Governor:** The Administrator signed and sent the response to the VI Governor on October 22, 2019.

From: Tomiak, Robert
Sent: Friday, October 11, 2019 11:06 AM
To: Harlow, David <harlow.david@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov>
Cc: Reed, Chris <Reed.Chris@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>
Subject: RE: Limetree Bay Terminal (LBT) Status Update 9/27/2019

Optimism all around that progress continues on the remaining issues. Latest status update is below.

Thanks, Rob

Limetree Update – October 11, 2019

- **CD Modification Update:** The October 7 and 8 meeting in DC was very productive. Limetree has indicated that it will provide language on what it believes to be three remaining issues by the end of the week. Ex. 7(A)

Ex. 7(A)

Ex. 7(A)

EPA received the phased in commissioning schedule, which sets forth Limetree Bay commissioning plans from October 10 through January, 2020.
- **PAL:** The PAL permit's public comment period is underway and closes November 25, 2019. An information session will take place on November 7, followed by a public hearing on November 8. Limetree Bay indicated in our biweekly calls that they will be submitting comments. Limetree's biweekly table indicates that it continues to believe ambient air monitoring in the draft permit is not legally required or appropriately included in the PAL.
- **Refinery Sector Rule and Boiler MACT Extension Requests:** Briefing documents have been prepared and an OECA and RA briefings are anticipated. Discussions are ongoing in OC and OCE. EPA will reconnect with VIDPNR after review by senior management.
- **Letter responding to VI Governor:** The proposed draft is being updated and is still with OCIR.

From: Tomiak, Robert

Sent: Friday, September 27, 2019 11:30 AM

To: Harlow, David <harlow.david@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov>

Cc: Reed, Chris <Reed.Chris@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>

Subject: RE: Limetree Bay Terminal (LBT) Status Update 9/27/2019

Several of you indicated that these bi-weekly updates are helpful for internal awareness and coordination, so we will continue to provide them. Detailed status update below.

Thanks, Rob

Limetree Update – September 27, 2019

- **CD Modification Update:** As of September 26, 2019, Limetree Bay has not submitted responses to several of the DOJ drafts sent over four weeks ago. The government team has reserved October 7 and 8 for a meeting in DC, with the expectation that Limetree Bay's submissions will be received in advance. Ex. 7(A)

Ex. 7(A)
- **PAL:** On September 20, 2019, EPA issued a draft Plantwide Applicability Limit (PAL) permit along with notification to the press that a notice will be published in the Virgin Islands Daily News and on EPA's website to announce the beginning of a 45 day public comment period on the permit. An information session will take place on November 7, followed by a public hearing on November 8. The PAL permit sets plantwide applicability limits for each of 7 pollutants and provides for robust monitoring, recordkeeping and reporting, including monitoring for SO₂, NO_x, and PM_{2.5} to detect violations, if any, of the national ambient air quality standards that might impact a nearby community designated as an environmental justice community.

- **Refinery Sector Rule and Boiler MACT Extension Requests:** Briefing documents have been prepared and an OECA briefing is still anticipated. Discussions are ongoing in OC and OCE. EPA will reconnect with VIDPNR after review by senior management.
- **Amended MARPOL Permit:** No appeals were received on the draft MARPOL permit.
- **Letter responding to VI Governor:** The proposed draft letter is being updated and prepared for the Administrator's signature by OCIR.

From: Tomiak, Robert

Sent: Friday, August 30, 2019 7:06 AM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Reed, Chris <Reed.Chris@epa.gov>; Harlow, David <harlow.david@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov>; Guthrie, Christina <Guthrie.Christina@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update 8/30/2019

Henry,

More positive progress to report! Detailed status update is provided below. Have a great Labor Day weekend!

Thanks, Rob

Administrator Update: OAR sent a memo to Limetree Bay on August 23 stating that the existing loading operation can be considered an offshore loading terminal and the new SPM as an addition to the existing structure. The PAL internal EPA review and response period prior to concurrence is nearing completion.

- **CD Modification Update:** Drafts continue to be exchanged. Limetree has indicated that it is commissioning boilers and/or heaters and associated equipment at the facility, which will take six to ten weeks, prior to restarting the units associated with the MARPOL project. The facility will not be processing crude or crude oil during this commissioning. Limetree will submit a description of what it is commissioning along with a timeline to EPA within the next two weeks. Ex. 5 Deliberative Process (DP) and Ex. 7(A)

Ex. 5 Deliberative Process (DP) and Ex. 7(A)

Ex. 5 Deliberative Process (DP) and Ex. 7(A)

LBT hopes that we will be able to sign the CD Modification within the commissioning period.

- **MACT Subpart Y:** OAR sent a memo to Limetree Bay on August 23 stating that the existing loading operation can be considered an offshore loading terminal and the new SPM as an addition to the existing structure. The draft response to the VI Governor's letter, which had been held pending issuance of this memo, is with OCIR.
- **PAL:** Limetree Bay was informed, at the last meeting, that EPA is hoping to publish the draft PALs sometime in the fall and that it hopes the PAL can be finalized by the end of January 2020, with the understanding that EPA review of the draft and subsequent public comment and EPA review and response to that comment may impact upon the timelines. The PAL internal EPA review and response period prior to concurrence is now nearing completion. On August 20, 2019, Limetree Bay and EPA discussed EPA's position on monitoring. Limetree indicated it would submit its position to EPA in writing.
- **Refinery Sector Rule and Boiler MACT extension requests:** The Office of Compliance and OECA Air Enforcement Division are preparing to brief senior management on the requests and their

recommended response. Region 2 is waiting to hear from them before reconnecting with the VIDPNR, who asked for the Region's input on the initial broad extension requests.

- **Amended MARPOL permit:** The VIDPNR issued the permit August 14, 2019.

From: Tomiak, Robert

Sent: Friday, August 16, 2019 5:40 AM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Reed, Chris <Reed.Chris@epa.gov>; Harlow, David <harlow.david@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov>; Guthrie, Christina <Guthrie.Christina@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update 8/16/2019

Henry,

While we are now in a period characterized by LBT as a delay to their desired refinery restart, there has been significant work by the various teams involved and very nice progress on several fronts to report! LBT continues to express appreciation for the centrally coordinated team approach that you asked us to take almost a year ago now.

A more detailed status update is provided below.

Thanks, Rob

Administrator Update: Limetree Bay hopes to settle and sign the CD Modification by the end of this week as it has indicated that, with the exception of the CD Modification, it is ready to restart some of the refinery units.

- **CD Modification Update:** In person negotiations continued on July 31 and August 1, after which the parties negotiated by phone on August 6 and have continued to transmit and respond to drafts. Limetree Bay is hopeful that settlement can be reached and that it can sign a CD Modification by August 16. It has indicated that, with the exception of signature on the CD Modification, it is ready to restart some of the refinery units. However, settlement this week is highly unlikely given that the parties are still exchanging drafts.
- **MACT Subpart Y:** OAR is drafting a memo, which will notify Limetree Bay of the MACT Subpart Y determination. Plans are to issue this memo in advance of the response to the VI Governor's letter, which is with OCIR for final edits and coordination.
- **PAL:** Limetree Bay was informed that EPA is hoping to publish the draft PALs sometime in the fall and that it hopes the PAL can be finalized by the end of January 2020, with the understanding that EPA review of the draft and subsequent public comment and EPA review and response to that comment may impact upon the timelines. On August 13, Limetree Bay contacted EPA to set up a meeting, which is now scheduled to occur on August 20, to discuss EPA's 7/18 response to Limetree Bay's 6/4 ambient monitoring proposal. In and before our biweekly meeting, EPA informed Limetree Bay that a letter was being prepared to be sent to them explaining why adjustments had been made to the PALs and emission factors proposed in Limetree Bay's PAL application. The letter was issued late in the day on August 14 and electronically forwarded to them on August 15.
- **Refinery Sector Rule and Boiler MACT extension requests:** EPA is currently reviewing Limetree Bay's submissions made to it and, at VIDPNR's request, submissions made to VIDPNR. A first draft response is being prepared.
- **Amended MARPOL permit:** The public comment period ended Friday, July 26. Issuance of the permit is expected shortly. Limetree Bay submitted a revision to the Authority to Construct to include the terms that survive termination of the Consent Decree, which are currently in the draft CD Modification that has yet to be agreed to in its entirety.

- **Response to VI Governor's letter to Administrator:** OCIR is incorporating final edits and finalizing coordination before forwarding the package to AW for signature.

From: Guthrie, Christina <Guthrie.Christina@epa.gov>

Sent: Friday, August 02, 2019 1:49 PM

To: Tomiak, Robert <tomiak.robert@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>

Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Reed, Chris <Reed.Chris@epa.gov>; Harlow, David <harlow.david@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov>

Subject: RE: Limetree Bay Terminal (LBT) Status Update 7/19/2019

Henry,

Here is the Limetree Bay update. Have a nice weekend!

Thanks,

Tina

Administrator Update: Limetree has indicated it will restart the refinery on August 12.

Recurring Updates:

- **CD Modification Update:** Negotiations continued on July 31 and August 1. A call has been scheduled for August 6, after which further calls and/or a meetings will be scheduled, if needed. Limetree has indicated that it may begin to restart some refinery units on August 12.
- **MACT Subpart Y: (No Change)** OAR issued a memorandum on the MACT Subpart Y determination. A variety of options are being considered for conveyance of the determination including addressing this in the Administrator's response to the Governor of the VI's letter.

- **PAL:** **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Concurrent with review of the draft PAL, Region 2 developed and, on 7/18, sent to Limetree a response to Limetree's 6/4 ambient monitoring proposal. On 7/26, EPA contacted Limetree to find out if it has comments on EPA's response and was told that a call will be arranged to discuss it. Following public notice, a public hearing and public availability session will be held on St. Croix, the timing of which is dependent on when the public notice is published.

- **Refinery Sector Rule and Boiler MACT extension requests:** **Ex. 7(A)**

Ex. 7(A)

Other Updates:

- **TPDES:** (No Change) Limetree Bay submitted an amended Territorial Pollutant Discharge Elimination System (TPDES) Permit Renewal Application to the VI DPNR, dated June 2019.

- **Amended MARPOL permit:** The public comment period ended Friday, July 26. Comments are currently being reviewed and responses will be prepared to be reviewed by VIDPNR management.
- **Response to VI Governor's letter to Administrator:** OECA has provided its edits to the letter drafted to respond to the Governor's letter and the letter is being processed for signature.

Christina Guthrie
Acting Division Director, Permitting Policy Division
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WJCS 7238C
202-564-8846
Guthrie.Christina@epa.gov

From: Tomiak, Robert
Sent: Friday, July 19, 2019 3:39 PM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Reed, Chris <Reed.Chris@epa.gov>; Harlow, David <harlow.david@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Guthrie, Christina <Guthrie.Christina@epa.gov>; Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov>
Subject: Limetree Bay Terminal (LBT) Status Update 7/19/2019

Henry,

A few changes to highlight from the last status report; key discussions continue on the topics flagged by Limetree Bay as critical.

Thanks, Rob

Administrator Update: A draft letter was prepared for Administrator Wheeler's signature to respond to the US VI Governor's letter of June 6, 2019. It is currently being reviewed by HQ senior leadership.

Recurring Updates:

- **CD Modification Update:** Negotiations continued on July 15 and 16. Drafts continue to be exchanged and July 31 and August 1 have been reserved for the next round of negotiations. Limetree has expressed concerns that this may preclude them from restarting the refinery by their earliest possible start date of August 1st.
- **MACT Subpart Y: (No Change)** OAR issued a memorandum on the MACT Subpart Y determination. A variety of options are being considered for conveyance of the determination including addressing this in the Administrator's response to the Governor of the VI's letter.
- **PAL:** EPA is reviewing the modeling report in conjunction with Limetree Bay's SO2 monitoring proposal. SO2 monitoring conditions are being prepared, which will address the proposal. Region 2 is currently addressing comments on the draft PAL received from OGC and OAQPS.
- **Refinery Sector Rule and Boiler MACT extension requests:** In response to a call in May with EPA and the VIDPNR, Limetree submitted a more thorough extension request letters, one to the VI on June 28 and one to EPA on July 15. These submittals are currently under review.

Other Updates:

- **TPDES:** (No Change) Limetree Bay submitted an amended Territorial Pollutant Discharge Elimination System (TPDES) Permit Renewal Application to the VI DPNR, dated June 2019.
- **Amended MARPOL permit:** The VI issued the draft MARPOL amended permit on June 28, 2019.

From: Tomiak, Robert

Sent: Wednesday, July 03, 2019 2:32 PM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Reed, Chris <Reed.Chris@epa.gov>; Harlow, David <harlow.david@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Guthrie, Christina <Guthrie.Christina@epa.gov>; Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update 7/3/2019

Henry,

Given that perhaps many will be out on Friday extending the 4th of July holiday into a long weekend, wanted to send this bi-weekly update out a bit early. Discussions are continuing to take place on the topics of the CD negotiations and MACT subpart Y determination.

Thanks, Rob

Administrator Update: On June 26, 2019, Susan Bodine and the Region 2 RA Pete Lopez had a conference call with the CD Modification litigation team in preparation for negotiations with Limetree Bay later that week and this week.

Recurring Updates:

- **CD Negotiations Update:** On June 26, 2019, Susan Bodine and the Region 2 RA Peter Lopez had a conference call with the CD Modification litigation team in preparation for negotiations with Limetree later that week and this week.
- **MACT Subpart Y:** (*NO CHANGE*) OAR issued a memorandum on the MACT Subpart Y determination. A variety of options are being considered for conveyance of the determination including addressing this in the Administrator's response to the Governor of the VI's letter.
- **PAL:** (*NO CHANGE*) Limetree Bay submitted its Modeling Report on June 17, 2019. Review is expected to be completed within two to three weeks from its submission.
- **Refinery Sector Rule and Boiler MACT extension requests:** (*NO CHANGE*) EPA is waiting for information from Limetree Bay.

Other Updates:

- **TPDES:** Limetree submitted an amended Territorial Pollutant Discharge Elimination System (TPDES) Permit Renewal Application to the VI DPNR, dated June 2019.
- **Response to VI Governor's letter:** A draft is being prepared for Administrator Wheeler's signature.

From: Tomiak, Robert
Sent: Friday, June 21, 2019 5:58 PM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Reed, Chris <Reed.Chris@epa.gov>; Harlow, David <harlow.david@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Guthrie, Christina <Guthrie.Christina@epa.gov>; Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov>
Subject: Re: Limetree Bay Terminal (LBT) Status Update 6/21/2019

Corrected version to reflect that Susan, Pete and Myles (DOJ) met with Limetree Bay on 20 June (vice 21 June).

Thanks, Rob

On Jun 21, 2019, at 12:49 PM, Tomiak, Robert <tomiak.robert@epa.gov> wrote:

Henry,

Current discussions at senior levels focused on CD negotiations and MACT subpart Y determination. A few recent developments; detailed status update provided below.

Thanks, Rob

Administrator Update: US VI Governor letter to Administrator:

Ex. 7(A)

Ex. 7(A)

Recurring Updates:

- **CD Negotiations Update:** Meetings occurred on June 6 and 7. Follow-up documents are being exchanged. Phone calls are scheduled to occur on June 25 and June 26. Meetings in the Virgin Islands will occur July 1 and 2 and in DC on July 15 and July 16.
Meeting with Susan Bodine: On June 20, 2019, Susan Bodine, Region 2 RA Peter Lopez and Department of Justice attorney Myles Flint met with Limetree Bay's counsel, the president of Limetree Bay Refining, LLC. and their contractor.
- **MACT Subpart Y:** OAR issued a memorandum on the MACT Subpart Y determination. A variety of options are being considered for conveyance of the determination including addressing this in the Administrator's response to the Governor of the VI's letter.
- **PAL:** Limetree submitted its Modeling Report on June 17, 2019. Review is expected to be completed within two to three weeks.
- **Refinery Sector Rule and Boiler MACT extension requests:** (NO CHANGE) EPA is waiting for information from Limetree Bay.

Other Updates:

- **US VI Governor letter to Administrator Wheeler:**

Ex. 7(A)

Ex. 7(A)

- **FOIA:** EPA received two FOIA requests. FOIA request #5583 requests emails and other records pertaining to ten specified Limetree Bay meetings on the Regional Administrator's public calendar. FOIA request #5578 requests the Regional Administrator's emails and other records relating to Limetree Bay for the period September 28, 2017 through 5/8/2018.

On Jun 7, 2019, at 2:24 PM, Guthrie, Christina <Guthrie.Christina@epa.gov> wrote:

Henry,

Here is the update for the Limetree Bay Terminal. (I am sending the update for Rob, while he is on leave.)

Have a great weekend,
Tina

Administrator Update: DOJ, EPA, VIDPNR and Limetree Bay met June 6 and 7 in DC to continue negotiations. Internal caucuses occurred with OECA and Regional management during the meetings.

- **CD Negotiations Update:** DOJ, EPA, VIDPNR and Limetree Bay met June 6 and 7 in DC to continue negotiations. Internal caucuses occurred with OECA and Regional management during the meetings.
- **MACT Subpart Y:**

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

- **PAL:** Limetree Bay and EPA have discussed EPA's May 16 comments on the modeling protocol Limetree submitted on May 8, 2019. Limetree has indicated it will address EPA's comments in its modeling analysis, which it believes will be submitted within two weeks.
- **Refinery Sector Rule and Boiler MACT extension requests:** EPA is awaiting information from Limetree Bay.

Tina Guthrie
Acting Division Director, Permitting Policy Division
Office of Federal Activities
WJCS 7238C
202-564-8846
Guthrie.christina@epa.gov

From: Tomiak, Robert

Sent: Friday, May 24, 2019 8:28 AM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Bodine, Susan <bodine.susan@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Reed, Chris <Reed.Chris@epa.gov>; Harlow, David <harlow.david@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Idsal, Anne

<idsal.anne@epa.gov>; Guthrie, Christina <Guthrie.Christina@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update 5/24/2019

Henry,

The CD negotiations remain the most pressing issue for Limetree Bay. Latest status update is provided below.

Thanks, Rob

Administrator Update: DOJ, EPA, VIDPNR and Limetree Bay will meet in DC on June 6 and 7 to continue negotiations. Ex. 7(A)

Ex. 7(A)

- CD Negotiations Update:

Ex. 7(A)

Ex. 7(A)

- MACT Subpart Y: **[NO CHANGE]** OECA and Region 2 understand that OAR has made a decision on the MACT issues that needs to be finalized in writing before it is communicated to the VI and then to Limetree Bay.
- PAL: Limetree Bay submitted its modeling protocol to EPA on May 8, 2019. On May 16, EPA provided comments on the protocol and requested clarification and confirmation on some items. Contractors to address EPA comments and resubmit by mid-week next week (May 29th).
- Refinery Sector Rule and Boiler MACT extension requests: The VIDPNR and EPA held a conference call with Limetree to discuss Limetree Bay submissions. Limetree Bay indicated that within two weeks, it will provide information requested during the meeting as well as further information required by the regulations for extension requests.

From: Tomiak, Robert

Sent: Friday, May 10, 2019 8:16 AM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Bodine, Susan <bodine.susan@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Reed, Chris <Reed.Chris@epa.gov>; Harlow, David <harlow.david@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update 5/10/2019

Henry,

Progress is being made on most outstanding actions. Attention is being devoted to ideas that might help VIDPNR with their capacity limitations. Latest status update is provided below.

Thanks, Rob

Administrator Update: Limetree Bay's team has expressed concern with a proposal they believe the Administration is considering that would phase in compliance with the MARPOL rule beyond 2020.

Update on Current EPA Actions:

- **CD Negotiations Update:** Ex. 7(A)

Ex. 7(A)
- **MACT Subpart Y:** OECA and Region 2 understand that OAR has made a decision on the MACT issues that needs to be finalized in writing before it is communicated to the VI and then to Limetree Bay.
- **PAL:** Limetree Bay submitted its modeling protocol to EPA on May 8, 2019.

Non-EPA Updates:

- **Potential revision to MARPOL rule:** Along with other industry representatives, Limetree Bay's team has expressed concern with a proposal they believe the Administration is considering that would phase in compliance with the MARPOL rule beyond 2020. The proposal includes an "experience-building phase" in lieu of immediate compliance on January 1, 2020 which Limetree Bay has indicated would impact the economic viability of their refinery restart project.
- **VIDPNR:** Limetree Bay and Region 2 are continuing to have difficulties scheduling meetings and obtaining responses from the VIDPNR. The Region 2 coordinator has successfully set up weekly calls on the CD modifications and the Commissioner seems amenable to assisting in scheduling weekly calls on matters being handled outside the CD negotiations.

From: Tomiak, Robert

Sent: Friday, April 26, 2019 2:09 PM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Reed, Chris <Reed.Chris@epa.gov>; Harlow, David <harlow.david@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update 4/26/2019

Henry,

Recent progress made on a few topics; others still undergoing continuing coordination by respective lead offices. Latest status update is provided below.

Thanks, Rob

Administrator Update: In consultation with OAR/OAQPS and other regional offices, EPA Region 2 has resolved modeling issues that must be addressed in the modeling protocol being developed by Limetree for the EJ Analysis, required by Presidential Executive Order 12898. In addition, EPA provided Limetree assurances that it can operate pending a complete permit renewal application.

Update on Current EPA Actions:

- **Title V:** In consultation with OGC, OAR, and other regions, EPA R2 provided the VIDPNR and confirmed to Limetree EPA's position that the facility can operate in accordance with a title V renewal application, provided the application is complete and the additional or updated requirements to be included in the permit do not constitute modifications under title I of the CAA and do not significantly change monitoring, recordkeeping, and/or reporting requirements in the existing permit.

Ex. 7(A)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

- **PAL:** In consultation with OAR/OAQPS and other regional offices, EPA R2 has resolved issues modeling issues that must be addressed in the modeling protocol being developed by Limetree for the EJ Analysis, required by Presidential Executive Order 12898. Limetree will be submitting the protocol for EPA's review within the next two weeks. EPA review of the EJ Analysis is being conducted concurrent with its review of the PAL permit application.
- **Other EPA Updates:** Limetree was encouraged to schedule meetings to discuss other remaining issues including SIP Rule redrafting which the EPA and VIDPNR hope to share with Limetree; and SO2 Monitoring which the VIDPNR and EPA agree is necessary to insure compliance with the NAAQs. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Tomiak, Robert

Sent: Friday, April 12, 2019 7:42 PM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Reed, Chris <Reed.Chris@epa.gov>; Harlow, David <harlow.david@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Woods, Clint <woods.clint@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update 4/12/2019

Henry,

Nothing substantive in the way of an update this period. The last report remains the most accurate progress status on the outstanding issues that we continue to track.

Thanks, Rob

On Mar 29, 2019, at 1:21 PM, Tomiak, Robert <tomiak.robert@epa.gov> wrote:

Henry,

As we continue to hold extremely productive meetings and share information/status updates, we are narrowing in and making progress on the remaining issues. During yesterday's meeting, LBT indicated that they are now aiming for a July 2019 refinery restart date (vice their previously communicated January 2020 target date) which was a bit of a surprise for the team to learn. I've asked for and LBT has committed to providing details to help us better understand their schedule shift and how it fits with some of the other key permits and dependent actions that must be completed first. Latest status update is provided below.

Thanks, Rob

Administrator Update: Limetree Bay indicated during a team meeting yesterday that they intend to restart the refinery at the end of July 2019, rather than the beginning of January 2020 as originally communicated. Limetree Bay will be submitting more detail to help us understand this potentially significant schedule shift.

Update on Current EPA Actions

- **Refinery Restart:** Limetree Bay projects the restart of the refinery will occur at the end of July, rather than the beginning of January 2020 as originally contemplated. Limetree will be submitting more details.

Ex. 7(A)

Ex. 5 Deliberative Process (DP)

- **PAL:** Limetree submitted a revised PAL timeline. The revisions relate to projected timing for completion of review of modeling and projected timing relating to revision of the MARPOL construction permit to include work necessary to restart Crude 6, as well as revisions relating to incorporating the revised construction permit into the title V application. The December 31, 2019 projected issuance date continues to be included in the revision.
- **Other EPA Updates:** EPA and the VIDPNR are scheduling further discussions on various outstanding SIP, title V permitting Issues and Refinery Sector Rule and Boiler MACT extension requests. Limetree Bay submitted supplemental requests for further extending the regulatory requirements of the Refinery Sector Rule and Boiler MACT. Limetree Bay has indicated it will be submitting additional information relating to the timing of the issuance of the revised title V permit.

From: Tomiak, Robert

Sent: Friday, March 15, 2019 5:06 AM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill

<Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>;
Lopez, Peter <lopez.peter@epa.gov>; Reed, Chris
<Reed.Chris@epa.gov>; Harlow, David <harlow.david@epa.gov>;
Mugdan, Walter <Mugdan.Walter@epa.gov>
Subject: Limetree Bay Terminal (LBT) Status Update 3/15/2019

Henry,

As a result of continuous communication and information sharing with the LBT team, the most notable and positive update is that LBT has acknowledged that their expectation to be issued PAL permits by June 2019 was not practical and they have modified their schedule and strategy accordingly. Latest status update is provided below.

Thanks, Rob

Administrator Update: EPA previously expressed concerns about Limetree's requested end of June issue date for the PALs. EPA indicated that this timeline did not consider the minimum time required to accomplish the Agency's publication and notice process prior to permit issuance. To address EPA's concerns, on March 14, 2019, Limetree Bay submitted a revised permitting strategy, which includes a December 31, 2019 requested PAL issue date.

Update on Current EPA Actions:

- **CD Negotiations Update:**

Ex. 7(A)

Ex. 7(A)
- **Ex. 5 Deliberative Process (DP)**
- **PAL:** EPA previously expressed concerns about Limetree's requested end of June issue date for the PALs. EPA indicated that this timeline did not consider the minimum time required to accomplish the Agency's publication and notice process prior to permit issuance. To address EPA's concerns, on March 14, 2019, Limetree Bay submitted a revised permitting strategy, which includes a December 31, 2019 requested PAL issue date.
- **Other EPA Updates:** EPA and the VIDPNR have discussed various outstanding SIP, title V permitting issues and Refinery Sector Rule extension requests and EPA will provide LBT with a list of VIDPNR contacts.

From: Tomiak, Robert
Sent: Tuesday, March 05, 2019 3:51 PM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>
Subject: Limetree Bay Terminal (LBT) Status Update 3/5/2019

Henry,

Latest project status is provided below. As previously indicated, I made a decision late Friday to delay this report and requested that the team afford an additional round of staffing/vetting (not normally part of our regular process) given the nature of this particular update to prevent surprises and ensure alignment/accuracy. With the USACE's issuance of their 404 permit for the SPM, we now own the actions that are most critical and urgent to LBT.

Thanks, Rob

Administrator Update: In a biweekly call with Limetree Bay, EPA made it clear that the company's requested end of June issue date for the PAL permits was not possible because it would allow no further time for review of the extensive PAL application, given that close to four months is the minimum required time period to accomplish the Agency publication and notice process prior to final permit issuance. While R2, in consultation with OAR and OGC, is doing everything possible to expedite processing the permit, there remains a broad gap between a realistic timeline for completion and the company's request.

Update on Current EPA Actions:

- **CD Negotiations Update:** EPA and DOJ met last week to continue review of all items that the group was discussing prior to the shutdown. Next steps include reestablishing contact with the VIDPNR and the new VI Commissioner-Designee prior to providing Limetree Bay responses to items it submitted in late December and during the shutdown. The case team is also waiting for a few more Limetree Bay submissions and is hoping to meet with the company in early April.
- **MACT Subpart Y:** Region 2 and the Air Enforcement Division of OECA briefed the Acting Director and Acting Associate Director of SPPD in OAQPS on the MACT Subpart Y compliance deliberations. Members of OGC were also present on the call. OAR indicated that it would need to brief the matter further up. A meeting with Limetree Bay will be arranged after all necessary briefings have been conducted. LBT has articulated that our determination is a consequential decision that may significantly impact their project cost, viability, and/or timeline.

- **PAL:** In a biweekly call with Limetree Bay, EPA made it clear that the company's requested end of June issue date for the PAL permits was not possible, given that the back end of the permitting process, if there were no substantive comments, would take close to four months, which in itself would bring us to the end of June, providing little time for review of the extensive permit applications. While R2, in consultation with OAR and OGC, is doing everything possible to expedite processing the permit, there remains a broad gap between a realistic timeline for completion and the company's request.
- **Most Significant Non-EPA Update:** On February 12, 2019, the NMFS provided the USACE its biological opinion. On February 22, 2019, the USACE issued the 404 permit for the Single Platform Mooring (SPM). Limetree Bay indicated that they have already begun construction.

From: Tomiak, Robert
Sent: Monday, March 04, 2019 4:57 PM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Re: Limetree Bay Terminal (LBT) Status Update 3/1/2019

Henry,

I apologize for the delay in last Friday's status update. Given the nature of the proposed update submitted by the team, I wanted to afford Pete the professional courtesy of his personal review. Will submit once he's had that opportunity.

Thanks, Rob

On Feb 15, 2019, at 1:47 PM, Tomiak, Robert <tomiak.robert@epa.gov> wrote:

Henry,

NMFS issued their Biological Opinion on Tuesday required for USACE to issue a 404 permit, which we expect will happen very soon. Focus will soon be almost exclusively on our pending actions and the timing. More detailed update is provided below.

Thanks, Rob

**Limetree Bay Terminals St. Croix project update
2/15/19**

Administrator Update: We were informed by LBT that they finally received the BiOp from NMFS on 12 Feb; and USACE estimates issuing the 404 permit within the next 7 days. We expect LBT's interest to shift more heavily to our pending actions with increased requests for information related to our estimated timing.

Update on Current EPA Actions:

- **CD Negotiations Update:** EPA and DOJ are preparing for an internal meeting to occur on 2/20 to review all items that the group was discussing with the VIDPNR prior to the shutdown. The team is also preparing and meeting to review edits and proposals LBT submitted prior to the shutdown. After completing this review, DOJ and EPA will resume discussions with the VIDPNR and the new VI Commissioner-Designee on what can be provided to LBT prior to the next meeting with them.
- **MACT Subpart Y:** Briefings within Region 2, and with and within OECA and OAR/OAQPS continue. Following completion of the necessary briefings, a meeting with LBT will be planned. LBT requested a meeting with political leadership before a final decision is rendered on this issue.
- **PAL:** The region is currently waiting for LBT's submission of modeling protocol for EPA review and LBT has indicated that it will provide information within the next week or two.
- **Most significant impact/risk:** Once USACE issues (expected soon) the 404 permit for the Single Platform Mooring (SPM), we expect LBT's interest to shift more heavily to EPA pending actions with increased requests for information related to our estimated timing.

From: Tomiak, Robert

Sent: Thursday, January 31, 2019 10:21 AM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>;

Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany

<bolen.brittany@epa.gov>; Lopez, Peter

<lopez.peter@epa.gov>; Tyler, Tom

<Tyler.Tom@epa.gov>; Harlow, David

<harlow.david@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update

1/31/2019

Henry,

R2, OECA, OAR, and other supporting offices have quickly ramped back up after the shutdown; and we held a team coordination call this morning with LBT and their legal/management team to provide status updates on all pending actions. Please note the very last paragraph that quantifies the financial impact to LBT (their input) as a result of the shutdown that delayed NMFS in the processing of a Biological Opinion in support of a USACE 404 permit. Our colleagues at NMFS have indicated that they have restarted their efforts to conclude their process and coordinating closely with USACE.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 1/31/19

Administrator Update: Actions relating to the restart of the Limetree Bay Terminals (LBT) facility located in St. Croix, Virgin Islands were delayed by the partial government shutdown. The most significant shutdown impact to LBT was the delay in the processing of a Biological Opinion by the National Marine Fisheries Service in support of a pending Army Corps 404 permit. EPA actions delayed include the processing of a recently submitted set of Plantwide Applicability Limit (PAL) applications, deliberations relating to the MACT subpart Y determination and Refinery Sector Rule, and negotiations on modifications to an existing Clean Air Act (CAA) Consent Decree.

Update on Current EPA Actions:

- **CD Negotiations Update:** Prior to the shutdown, LBT, EPA and DPNR were exchanging drafts and information relevant to the negotiations. EPA and DPNR were engaged in reviewing responses from LBT and were waiting for additional LBT submittals. During the first week after the shutdown, LBT indicated that it will get additional information to us shortly. The litigation team has resumed its work on responding to LBT's submissions.
- **MACT Subpart Y:** Prior to the shutdown, senior leadership in OECA was briefed and provided documentation related to the compliance determination. We anticipate that there will be at least one more level of briefing prior to any determination being shared with LBT.
- **PAL:** On December 28, 2018, EPA issued a letter in which it indicated that it determined the application

complete as of December 27. Doing so before the end of the calendar year was critical to LBT as it allowed for inclusion of 2009 emission data in the ten-year baseline.

- An EPA timeline for the seven requested PALs was developed and shared with various divisions in HQ but has not yet been discussed with LBT. The facility is requesting issuance of the permits for the PALs by the end of June, but it has not indicated why and this time frame is an unreasonably short time frame for review of the more than 300 page application package. The CAA provides that issuance of permits be within one year of a complete application.
- Region 2 is focusing its permitting staff on review to ensure that the package is reviewed and acted upon as soon as practicable.
- **Most significant impact/risk (Non-EPA)** Due to the partial government shutdown, the NMFS's Biological Opinion (BiOp) under the Endangered Species Act (ESA) for impacts to coral/coral habitat was not provided to the USACE (Army Corp) by January 14, 2019 as anticipated, so USACE could not issue the 404 permit for the Single Platform Mooring (SPM) within the timeframe provided by the statute. LBT has indicated it is paying \$82k/day to retain a dredging crew in the Virgin Islands so that it can begin work when the permit is issued.

From: Tomiak, Robert

Sent: Thursday, December 06, 2018 9:54 AM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>;

Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany

<bolen.brittany@epa.gov>; Lopez, Peter

<lopez.peter@epa.gov>; Tyler, Tom

<Tyler.Tom@epa.gov>; Harlow, David

<harlow.david@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update
12/6/2018

Henry,

This bi-weekly update was delayed a bit to ensure we had alignment throughout the team on some upcoming communication points, highlighted below.

Thanks, Rob

Limetree Bay Terminals St. Croix project update
12/06/2018

Administrator Update: LBT submitted a package requesting seven plantwide applicability limits (PALs) on November 27, 2018. LBT has indicated that it thinks it needs the PALs by June 30, 2019, which is five months less than allowed for by the CAA. Region 2 staff, in consultation with OAR and OGC, have been working on a feasible timeline. A technical meeting is scheduled for December 11, 2018, at which LBT will walk the region through the over 300 page application.

- **Update on Current EPA Actions:**

- **CD Negotiations Update:** LBT, EPA and the VIDPNR met on 11/07 to discuss consent decree modifications; EPA, DOJ and the VI continue to engage in follow-up calls. Parties are beginning to exchange deliverables identified at the 11/07 meeting. EPA and DOJ are in the process of coordinating schedules with the VIDPNR to enable us to engage in a series of telephone calls during the month of December.
- **MACT Subpart Y:** Compliance issues with MACT subpart Y remain the most critical and time sensitive EPA action/issue to LBT. R2 is currently working with HQ on deliberations pertaining to the extent of applicability. While LBT has still not submitted all of the requested information, it submitted enough for EPA to proceed with compliance deliberations. Briefings are being arranged for several upper level managers.
- **PAL:** Region 2 staff, in consultation with OAR and OGC, have been working on a timeline. LBT has indicated that it thinks it needs the plantwide applicability limits (PALs) by June 30, 2019, which is five months less than allowed for by the CAA. Late on November 27, 2018, LBT submitted a package that is over 300 pages, in which it requested seven PALs. An in-person technical meeting has been scheduled for December 11, 2018 at which LBT will walk the region through the LBT submission. Information obtained at that meeting and through review of the submission should facilitate providing an initial internal timeline by mid-December.

- **Most significant impact/risk (Non-EPA) (NO CHANGE)** to LBT is the timing of NMFS' Biological Opinion (BiOp) under the Endangered Species Act (ESA) for impacts to coral/coral habitat and critical to

obtaining a 404 permit from USACE for a Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side). LBT needed the BiOp to be completed by 10/15 to meet contractual obligations; NMFS still articulating a 1/14/19 completion date. LBT seems likely to elevate complaints specific to perceived delays by NMFS.

From: Tomiak, Robert

Sent: Friday, November 16, 2018 12:48 PM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update
11/16/2018

Henry,

Extensive coordination ongoing between R2, OECA, and OAR on LBT actions/requests. Bi-weekly update provided below.

Thanks, Rob

Limetree Bay Terminals St. Croix project update

11/16/2018

- **Update on Current EPA Actions:**
 - **CD Negotiations Update:** LBT, EPA and the VIDPNR met on 11/07 to discuss consent decree modifications; Internal and external follow-up calls are ensuing; Parties will share written list of deliverables to be exchanged prior to and at the next meeting. At least one meeting is likely to be scheduled for the month of December.
 - **MACT Subpart Y:** Compliance issues with MACT subpart Y remain the most critical and time sensitive EPA action/issue to LBT. R2 is currently working with HQ on deliberations pertaining to the extent of applicability. EPA has not received all of the information it requested at and after its October 25 meeting. LBT has indicated that the remainder of the requested

information will be in this week. Internal briefing documents are being prepared and the Region is working with OECA and consulting with OAR to make the determinations.

- **PAL:** LBT modified its November 1, 2018 timeframe for submitting a PAL application and indicated that the application would be provided by the end of the third week in November.
- **Most significant impact/risk (Non-EPA) (NO CHANGE)** to LBT is the timing of NMFS' Biological Opinion (BiOp) under the Endangered Species Act (ESA) for impacts to coral/coral habitat and critical to obtaining a 404 permit from USACE for a Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side). LBT needed the BiOp to be completed by 10/15 to meet contractual obligations; NMFS still articulating a 1/14/19 completion date. LBT seems likely to elevate complaints specific to perceived delays by NMFS.

Administrator Update: R2 is fully engaged with LBT on compliance and applicability issues. R2 preparing timelines for processing various actions, which will be submitted after vetting with engaged offices.

From: Tomiak, Robert

Sent: Friday, November 02, 2018 11:42 AM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>;

Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany

<bolen.brittany@epa.gov>; Lopez, Peter

<lopez.peter@epa.gov>; Tyler, Tom

<Tyler.Tom@epa.gov>; Harlow, David

<harlow.david@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update
11/2/2018

Henry,

Significant support to LBT on a multitude of permit related issues and questions from R2 and OAR. As we close in on a meeting of minds with LBT on what permits and other determinations they require from us and other resource agencies, we have started constructing a Gantt chart to identify and map out critical path and to express process milestone dates

required to help LBT stay on their schedule. Bi-weekly update provided below.

Thanks, Rob

Limetree Bay Terminals St. Croix project
update 11/02/2018

- LBT and EPA will meet on 11/7 to discuss the remaining items on the consent decree; multiple actions have been removed from the consent decree negotiation and are now being tracked by our team.
- LBT indicated that upon interfacing with CEQ, and potentially WH staff, they were assured that the MARPOL 2020 standards for marine fuel will not be delayed, contrary to the WSJ article.
- Current EPA Action (UPDATE): Compliance issues with MACT subpart Y remain the most critical and time sensitive EPA action/issue to LBT. R2 is currently examining recently-provided background materials from LBT.
- Most significant impact/risk (UPDATE) to LBT is the timing of NMFS' Biological Opinion (BiOp) under the Endangered Species Act (ESA) for impacts to coral/coral habitat and critical to obtaining a 404 permit from USACE for a Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side). LBT needed the BiOp to be completed by 10/15 to meet contractual obligations; NMFS still articulating a 1/13 completion date. LBT likely to elevate complaints specific to perceived delays by NMFS.
- Administrator Update: R2 providing timely technical assistance in response to LBT on several permit and compliance issues.

From: Tomiak, Robert

Sent: Friday, October 12, 2018 12:23 PM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>;

Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter

<lopez.peter@epa.gov>; Tyler, Tom

<Tyler.Tom@epa.gov>; Harlow, David

<harlow.david@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update
10/12/2018

Henry,

Intent was to go to bi-weekly updates; however, in our meeting yesterday with LBT lead counsel, they flagged what they now consider a new “showstopper” for their Single Platform Mooring (SPM) project. While not a new issue, LBT desired to seek resolution of control standards through the CD. Upon being advised by DOJ that path would not be appropriate, LBT may now potentially characterize EPA as presenting their project with the most risk.

Update below. Please let me know if you’d prefer additional details or a brief.

Thanks, Rob

Limetree Bay Terminals St. Croix project update
10/12/2018

- **Current EPA Action (UPDATE)** In mid-August and again on September 21 LBT was told by DOJ, and then the representatives from OP, to contact regional staff to determine what is needed to comply with Maximum Achievable Control Technology (MACT) Subpart Y Standards, for marine tank vessel loading operations, at the fuel loading terminal. These issues may have an impact on decisions relating to the feasibility of the SPM. On October 12, 2018, LBT contacted the Region 2 ORC Air Chief and LBT agreed to provide background information prior to a call to occur next Wednesday. Information submitted will be reviewed and discussions will be relating to the issues will be ongoing. Although LBT’s counsel believes that very expensive controls will be required, EPA has not made a determination as to what controls, if any, may be needed; EPA does not yet have information from LBT in order to make this determination.
- **Proposed Summary for AW: (UPDATE)** LBT is meeting with Region 2 experts next week to determine what compliance is needed for the marine loading MACT; LBT has committed to providing R2 with required information in advance.

From: Darwin, Henry
Sent: Friday, October 05, 2018 1:07 PM
To: Tomiak, Robert <tomiak.robert@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: RE: Limetree Bay Terminal (LBT) Status Update 10/5/2018

Thank you Rob for the update and the continued work on this. I agree that bi-weekly will be fine.

Henry

From: Tomiak, Robert
Sent: Friday, October 5, 2018 10:54 AM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Limetree Bay Terminal (LBT) Status Update 10/5/2018

Henry,

I'm confident now that our cross-agency team has an extremely good handle on all aspects of this project and its major milestones and dependencies; to even include those actions required of other organizations. The only EPA action standing between LBT and the restart of refinery operation remains the acceptance by LBT of some modified form of the Consent Decree; however, it is not yet closing in on a point where it would negatively impact the January 2020 target refinery restart date.

The team's focus has also expanded to LBT's conceptual expansion projects, unrelated to their refinery restart, and in coordination with other organizations to include VIDPNR in the event that they require reach-back and/or technical assistance from R2 or OAR.

The only update of note is the first bullet below. Unless you prefer even a minor weekly update, it might make sense to move to bi-weekly updates at this point. We continue to meet in person with the expanded LBT (legal, planning, design, and operations) team on a bi-weekly basis.

Thanks, Rob

Limetree Bay Terminals St. Croix project update
10/5/2018

- Cross-agency team is discussing LBT's perceived need/desire for a Plantwide Applicability Limit (PAL). Our team is initially unclear on the purpose it would serve for LBT, but continuing discussions with LBT on their contemplated scope of expansion projects such that we may provide accurate advice and assistance if/when an application is received.
- Current EPA Action (NO CHANGE) is the Consent Decree (CD). DOJ/OECA met with LBT and the VIDPNR 9/21 to discuss the CD. The parties are progressing toward agreement that six of LBT's 27 modification requests will be handled separately and outside the CD mod. Patrick Traylor (OECA) reiterated to LBT principals that EPA is postured to be responsive and has established an executive level coordination team, but LBT must provide DOJ and OECA with information requested to help.
- Most significant impact/risk (NO CHANGE) to LBT is the timing of USACE's 404 permit for a Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side) which LBT indicates they require by 11/1 to meet contractual obligations. The 404 permit triggered formal consultation with NMFS under Endangered Species Act (ESA) for impacts to coral/coral habitat, which commenced on 8/31 and is projected to conclude by 1/13, after which USACE will need about 2-3 weeks to issue their permit. LBT likely to elevate complaints specific to NMFS timeline.
- Proposed Summary for AW: (NO CHANGE) EPA has established a dedicated team to assist LBT; all EPA actions are tracking and currently pose no delay to refinery restart. EPA has made it clear that LBT needs to timely provide EPA with information requested.

From: Tomiak, Robert

Sent: Friday, September 28, 2018 11:13 AM

To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>;
Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany
<bolen.brittany@epa.gov>; Lopez, Peter
<lopez.peter@epa.gov>; Tyler, Tom
<Tyler.Tom@epa.gov>; Harlow, David
<harlow.david@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update
9/28/2018

Henry,

Weekly status update provided below. As briefly mentioned yesterday on our way to the OFD brief, OECA reinforced with the LBT principal and lead counsel last Friday that EPA established a senior working group to provide dedicated and timely assistance; however, they must provide information previously requested which is critical to our/DOJ's ability to help them quickly resolve issues and questions related to the Consent Decree. Our team remains focused on seeking LBT's additional potential plans and conceptual ideas related to "expansion/modification" so that we can determine what else might be required of us, or other organizations, and how we can assist. Please advise if you have any questions or would like an in-person brief.

Thanks, Rob

Limetree Bay Terminals St. Croix project update
9/28/2018:

- LBT and counsel provided background documents describing the single-point mooring (SPM) and refinery restart projects as well as a table showing the permits and other regulatory reviews and approvals they anticipate needing to restart the refinery and install the SPM, including many permits and applications LBT already has in place.
- Current EPA Action is the Consent Decree (CD). DOJ/OECA met with LBT and the VIDPNR 9/21 to discuss the CD. The parties are progressing toward agreement that six of LBT's 27 modification requests will be handled separately and outside the CD mod. Patrick Traylor (OECA) reiterated to LBT principals that EPA is postured to be responsive and has established an executive level coordination team, but LBT must provide DOJ and OECA with information requested to help.
- Most significant impact/risk (NO CHANGE) to LBT is the timing of USACE's 404 permit for a

Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side) which LBT indicates they require by 11/1 to meet contractual obligations. The 404 permit triggered formal consultation with NMFS under Endangered Species Act (ESA) for impacts to coral/coral habitat, which commenced on 8/31 and is projected to conclude by 1/13, after which USACE will need about 2-3 weeks to issue their permit. LBT likely to elevate complaints specific to NMFS timeline.

- Proposed Summary for AW: (UPDATE) EPA has established a dedicated team to assist LBT; all EPA actions are tracking and currently pose no delay to refinery restart. EPA has made it clear that LBT needs to timely provide EPA with information requested.

From: Tomiak, Robert

Sent: Friday, September 21, 2018 1:13 PM

To: Darwin, Henry

Cc: Traylor, Patrick ; Wehrum, Bill ; Bolen, Brittany ; Lopez, Peter ; Tyler, Tom ; Harlow, David

Subject: Limetree Bay Terminal (LBT) Status Update 9/21/2018

Henry,

LBT status update provided below; the team we assimilated is up and running with a significant degree of cross-organizational coordination and communication within their areas of expertise. In particular, Flaire Mills (R2 ORC) has been invaluable to our team effort. Please advise if you have any questions or would like an in-person brief.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 9/21/2018:

- Established a routine of bi-weekly meetings with LBT and their lead counsel; to include R2 lead. LBT and counsel indicated appreciation for our attention, coordination, and responsiveness.
- A modification to LBT's Title V permit is of significant concern to LBT. R2 offering assistance to Virgin Islands Department of

Planning and Natural Resources (VIDPNR), which is the lead Title V permitting authority.

- EPA's major action at the moment is the Consent Decree (CD); OECA/DOJ reviewed the 27 requests for modification and held a meeting with LBT today (9/21) to attempt to narrow issues and find a mutually acceptable path forward on the CD. This action is not yet approaching a point of delay/impact; nor is it yet a concern for LBT.
- Most significant impact/risk to LBT is the timing of USACE's 404 permit for a Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side) which LBT indicates they require by 11/1 to meet contractual obligations. The 404 permit triggered formal consultation with NMFS under Endangered Species Act (ESA) for impacts to coral/coral habitat, which commenced on 8/31 and is projected to conclude by 1/13, after which USACE will need about 2-3 weeks to issue their permit. LBT likely to elevate complaints specific to NMFS timeline.
- Proposed Summary for AW: (NO CHANGE) EPA is actively engaged with and assisting LBT; all EPA actions are tracking and currently pose no delay to refinery restart. Current LBT concern is with the timing of a required USACE 404 permit, which triggered Endangered Species Act consultation with NMFS, for the installation of a mooring platform and underwater pipeline required to accommodate a larger class of oil tankers.

From: Tomiak, Robert

Sent: Friday, September 14, 2018 12:23 PM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>;

Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany

<bolen.brittany@epa.gov>; Lopez, Peter

<lopez.peter@epa.gov>; Tyler, Tom

<Tyler.Tom@epa.gov>; Harlow, David

<harlow.david@epa.gov>

Subject: Limetree Bay Terminal (LBT) Status Update
9/14/2018

Henry,

My first recurring weekly status update is provided below. I will aim for Fridays, unless you or Andrew have

a preference/need for a different frequency and/or different point in the week. I will also end each update with a proposed summary that you can forward to AW at your discretion so that he is prepared to respond quickly to a no-notice inquiry. I'll keep future updates shorter (3-4 bulleted highlights or so), but please advise if you'd prefer a format other than what I have provided today. There is also a lot of detail behind each piece, so we are prepared to brief you in person with little notice if you'd like a deeper dive or have questions at any point. R2, OECA and OAR staff have invested a significant amount of time digging into the details; which certainly made getting up to speed much easier. I've copied Bill, Patrick, David, and Pete out of courtesy and appreciation....which I'd ask make it back down to their staff (and if any of you would like to be dropped from future updates, please let me know offline).

I've also attached R2's more recent issue paper/fact sheet for reference.

Thanks, Rob

Limetree Bay Terminals St. Croix project update
9/14/2018:

- We met on 9/13 with LBT, their lead counsel, and reps from their project management (PM) team and primary financiers (ARCLIGHT); communicated that I'll serve as their front door and switchboard operator for anything they need from EPA. We listened to a description of intent, context, challenges, and timing.
- LBT (counsel/PM) shared their project schedule (in the form of a Gannt chart), discussed the scope of the project components, and committed to providing a list of all known requirements (permits and requests for information) for us to determine if we have a collective meeting of the minds on scope, actions, and due dates. LBT acknowledged that they have not yet fully defined the scope of their plans for a "plant expansion", so requirements, and our actions, may continue to evolve. LBT is likely to resubmit an application to be a FAST-41 covered project with USACE as the lead agency.
- We also held our first internal team meeting on 9/13 (reps from R2, OLEM, OW, OAR, OECA, OGC, Sectors, and OEJ); articulated expectations, discussed scope and context of project, and started building a database/tracker of all known and anticipated actions (to include those of other federal and local agencies).

- EPA's major action at the moment is the Consent Decree (CD); OECA/DOJ reviewed the 27 requests for modification and require additional information from LBT which was requested in writing by DOJ on 9/10. This action is not yet approaching a point of delay/impact; nor is it yet a concern for LBT.
- Most significant impact/risk to LBT is the timing of USACE's 404 permit for a Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side) which LBT indicates they require by 11/1 to meet contractual obligations. The 404 permit triggered formal consultation with NMFS under Endangered Species Act (ESA) for impacts to coral/coral habitat which commenced on 8/31. Formal consultation statutory clock is 135 days, after which USACE will need about 3-4 weeks to sign a NEPA decision and issue their permit. I have had several coordination meetings already with USACE and NMFS counterparts. Senior leadership in both agencies are aware of and tracking progress; however, there is a significant risk that this will run well beyond LBT's desired 11/1 date and trigger complaints of impact and delay.
- Proposed Summary for AW: EPA is actively engaged with and assisting LBT; all EPA actions are tracking and currently pose no delay to refinery restart. Current LBT concern is with the timing of a required USACE 404 permit, which triggered Endangered Species Act consultation with NMFS, for the installation of a mooring platform and underwater pipeline required to accommodate a larger class of oil tankers.

From: Darwin, Henry

Sent: Wednesday, August 29, 2018 4:33 PM

To: Lopez, Peter <lopez.peter@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>;

Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany

<bolen.brittany@epa.gov>; Tomiak, Robert

<tomiak.robert@epa.gov>

Subject: Limetree

Pete:

Acting Administrator Wheeler and I have asked the Office of Policy to engage their Office of Federal Activities to lead in the coordination of the Limetree

matter. The Director, Rob Tomiak, has agreed to serve as EPA's project manager who will be the primary point of contact for Limetree in helping to connect them with the federal programs and offices they must involve to resume operations. Please inform your team to fully cooperate with Rob in these efforts.

If you have any questions, please let me know.

Thank you.

Henry